

Customer No.: 31561
Docket No.: 10767-US-PA
Application No.: 10/708,198

REMARKS

Present Status of the Application

In the Requirement for Restriction/Election, the application was considered to have two patentably distinct species as Species I and II. Claims 1, 6-7 and 9-14 belong to Species, and Claims 1, 6, 8 and 9-14 belong to Species II. Claims 1, 6 and 9-14 appear to be generic.

In response thereto, Applicant has elected Species I including Claims 1, 6-7 and 9-14 with traverse. Applicant respectfully submits that the Office Action fails to establish *a prima facie case* for restriction and withdrawal of the restriction requirement is respectfully requested.

According to MPEP.803, it is well ruled that "for purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02."

According to 35 U.S.C. 121, it states that "If two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions." The Office Action states, on Page 3, that "[T]he species are independent or distinct because the species do not overlap in scope.....", however, the restriction is required only if two or more "independent and distinct" inventions are claimed in one application. The restriction is improper under the law.

In addition, "appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02" is not found in the Office Action. The subject matter of the claims in the present invention mainly refers to the switches that are turned on and off in order to control the active matrix organic light

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emitting diode (AMOLED) pixel to illuminate. The switches, which comprises a P-type thin film transistor (TFT) or a N-type TFT, are merely elements of different options used in the embodiments to serve the same function as the switches. Applicant respectfully submits that the two species are not independent and distinct because they do overlap in scope, mode of operation, function and effect for serving as switches. Applicant also respectfully submits that the restriction is improper and withdrawal of the restriction requirement is respectfully requested.

If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

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Respectfully submitted,



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